

September 13, 2024

Ms. Megan Campbell
Office of Child Care
U.S. Department of Health and Human Services
Washington, DC 20201

Re: Comments Regarding Increase Flexibility for Tribes in Child Care and Development Fund (CCDF) Eligibility (RIN 0970-AD11) Published July 16, 2024 in the *Federal Register*

Please accept the comments of the National Indian Child Welfare Association (NICWA) regarding the notice of proposed rulemaking (NPRM) published on July 16, 2024, in the Federal Register (RIN 0970-AD11). NICWA is a private, nonprofit Indian organization headquartered in Portland, Oregon. We are dedicated to the well-being of American Indian and Alaska Native (AI/AN) children and families and carry out our mission through public policy development, advocacy, research, and training of the child welfare workforce, and technical assistance with tribal, state, federal, and private agencies. We have extensive knowledge and expertise in federal child welfare and related policy and programming as it impacts tribal communities. Our comments and recommendations will focus on the impacts of the NPRM for AI/AN youth and families.

Background

The Child Care and Development Fund (CCDF) is a program under the Child Care and Development Block Grant that provides assistance to low-income families who need child care to work or attend job training or an educational program (Office of Child Care). It is the primary federal funding source for supporting access to child care and increasing the quality of child care. In Fiscal Year (FY) 2024, 546 tribal nations received grants from this fund ranging from \$70,000-\$88,000,000 (Office of Child Care 2024). Current regulations for the CCDF stipulate that based on a tribe's awarded amount, some tribes can only provide child care services funding to families that meet a specific income eligibility requirement. If a tribe received less than \$250,000 from this fund in FY 2016, the funds can be used to provide child care services to any Native child in their service area, no matter the income of the child's family, but tribes who received more than \$250,000 in FY 2016 are subject to the same income eligibility requirements as states. This requirement limits the number of children in the service area who can receive CCDF child care services, as families must prove that their income is not more than 85% of the median income for the service area to be eligible.

The proposed rule would amend the regulations for the allocation of CCDF funds for the 109 Tribal Lead Agencies that are currently subject to income eligibility requirements for their child care services. It would allow all tribes and tribal organizations who support child care services with CCDF funding to establish their own criteria for serving families, including not having the previously imposed income eligibility requirements. It allows tribes and tribal organizations more flexibility in allocating child care funds and supports tribal sovereignty by allowing tribal nations to determine who they will serve with CCDF funding.

Impact on Tribal Communities

Without eligibility for accessing child care services funds being dictated by income, tribes are able to make their own determinations regarding who can receive federally supported child care services in their service area and base eligibility requirements in alignment with community needs. The 155 Tribal Lead

Agencies who were allocated less than \$250,000 in FY 2016 are presently able to make these determinations, but this proposed rule would provide that authority to all tribes who receive CCDF funds.

Child Care and Child Welfare

Child care services and child welfare are intricately linked. Young children can already be receiving early childhood care and education services when they enter the child welfare system, and there needs to be coordination between child care and child welfare staff to make sure that children and families who need child welfare services are able to receive them in a timely manner. In their 2022 research brief “Alignment Between Early Childhood and Child Welfare Systems Benefits Children and Families”, Child Trends shows that child welfare as a whole cannot be understood without understanding family involvement in child care services. The brief states that, “Both before and during child welfare intervention, many of these young children and their families also access the services and supports provided by the early childhood system, including child care, mental and physical health services, and parental education and resources” (Jordan, Vandivere & Gross 2022). Early childhood care programs in many communities implement strategies to identify and prevent child maltreatment and to support families before the point of entering the child welfare system. Experts in child welfare call for coordination between a communities’ child care and child welfare departments in order to make sure identification and prevention strategies are carried out effectively.

Early childhood programs are so critical to the safety of children because of the importance of identifying child abuse and neglect early in young children. In 2020, over 75% of the children who died from child maltreatment in the United States were three years old or younger (Jordan et al. 2022). The focus on access to child care is crucial when considering how to prevent child maltreatment.

Child care services are essential to child well-being in a community. Parental figures and guardians of children in both temporary and permanent roles need support and child care in several different ways. As Child Trends highlights in their 2022 study, lack of care is a major challenge for all families, and it creates many barriers for caregivers who are involved with the child welfare system, including challenges for parents who need to find child care while they participate in services required by their case plans, and challenges for foster parents who need child care services but struggle with accessing subsidies for child care from state programs. Child Trends emphasizes that “Inadequate access to child care can contribute to child protective services investigations if, for example, a parent with professional demands who lacks access to safe child care leaves a child unattended or in an unsafe child care situation” (Jordan et al. 2022). It is necessary to consider child care as a part of any parent or guardian’s plan for children in their care, and that barriers to child care are struggles that parents and guardians encounter at all stages of caregiving.

There is a significant, unmet need for child care for caregivers of children who have interacted with the child welfare system. The Administration for Children and Family’s Office of Planning, Research, and Evaluation (OPRE) highlights a 2016 national survey from researchers G.S. Cuddeback and J.G. Orme that shows how many current and former foster parents need support with child care and aren’t receiving it. They found that 55.1% of relative caregivers and 45.2% of non-relative caregivers needed the support of day care services, but 32.5% of relative and 23.5% of non-relative caregivers didn’t receive them.

Many studies show that early childhood education programs, including child care, are correlated to reduced rates of child maltreatment in their community (Klein 2016). Child safety can be heightened when children who are subject to abuse or neglect in their homes have time away from their parents, participating in child care services increases the number of adults, other than primary caregivers, who see the children, and early childhood care programs are often linked to educational and support systems for parents and caregivers themselves (Klein 2016). The proposed flexibility in CCDF eligibility allows tribes to make decisions about how to use this funding to best serve their children and families, whether by

eliminating income eligibility requirements so more children can be involved in child care or education programs, or using CCDF funds for educational and support programs for parents and caregivers. The OPRE found that states who have more “accommodating” CCDF rules for children who have encountered the child welfare system have significantly less removals of children from their parents care, on average, than other states. Two explanations for children in child care and child welfare systems being removed less often include that child care programs can increase child safety because parents have access to the care services and support networks they provide, and that child welfare workers may feel more comfortable leaving children in homes because the adults providing child care can serve as mandated reporters and monitor children for signs of maltreatment (Klein 2016). Either way, this makes the case for tribal communities to be able to allocate child care funds in ways that best meet community needs.

Meeting Community Service Needs is Exercising Tribal Sovereignty

Flexibility and adaptability are imperative to make sure that CCDF funding adequately meets the need of tribal communities, because each of the 546 tribal nations that receive CCDF funds are unique and have individual child care needs. Reports from tribes highlight that the current income eligibility requirement is especially limiting, because in many tribal communities, there are often children and families who have need of early childhood care and education services who aren’t eligible based on the income limit for eligibility. Furthermore, options for child care and education services in geographically remote tribal communities are often very limited for all families.

The ability of tribal nations to effectively govern in a manner that fits their communities’ needs is a key aspect of tribal sovereignty at work in child care and related child welfare programs. Increasing flexibility so tribal nations can determine who they serve increases opportunities to leverage other tribal programs that families need, provide greater access to culturally relevant services, and ensure greater equity in the provision of services overall. When federal programs provide tribal nations with the opportunity to design and operate programs that reflect their cultural values and service delivery realities, outcomes for families and children are much more likely to align with federal program goals.

Head Start (one of many forms of child care eligible for CCDF funding) participation has been documented as a factor that can contribute to the economic well-being of a community as a whole. The National Bureau of Economic Research (NBER) found in a study of people who participated in Head Start programs earlier in their lives that Head Start decreased the likelihood of adult poverty by 23% and dependence on public assistance by 27 % (Bailey, Sun & Timpe 2012¹). Previously, when the Head Start funding for tribal families contained income eligibility criteria, families that saw modest improvement in their income above the income standards for Head Start eligibility could suddenly lose their opportunity to participate in Head Start, which in some cases could lead to downturn in economic well-being, especially if eligibility for other child care programs was also linked to income. This is another reason why tribes’ being able to set their own eligibility requirements is important, so families that accrue the intended benefits of Head Start don’t later feel punished by that progress in terms of losing needed care and support.

Tribal Involvement and Cultural Integration in Child Care

Research from the PolicyLab at the Children’s Hospital of Philadelphia found that Region XI Head Start programs¹ provide grants to 154 federally recognized tribes, and through that funding, serve more than 30,000 children and their families in tribal service areas. These programs focus on Native culture and

¹ Head Start is organized at the federal regional level by population served as opposed to a geographic area. Region XI focuses on services to American Indian and Alaska Native Head Start programs in the United States.

language, showing the critical importance of cultural integration in early childhood care and education. Of all children in Region XI, 56% were in classrooms that included formal Native language instruction, and 65% were in classrooms where Native language was used for instruction at least some of the time, 86% of children had an AI/AN cultural item (including Native instruments and cultural books) in their classroom, and 23% of children were in classrooms that even used culturally-based curriculums (Sarche 2018).

The effects of this cultural integration are clear, Children's Hospital of Philadelphia emphasizes that "Region XI Head Start can play a vital role in helping Native families, communities and nations as a whole raise new generations whose development and identity are grounded in Native culture and language—both of which can serve as foundations to health and well-being in early childhood and beyond" (Sarche 2018). The foundations built in Head Start and early child care services crucially inform many aspects of a child's development, so tribal determination in how funds and resources can best support these programs is critical to promoting family stability and positive child development that has important benefits for Native communities overall. Tribal child care providers are also important early teachers of cultural knowledge and promote early engagement in cultural activities for Native children and families, no matter their income. The National Indian Child Welfare Association recognizes the value of tribal involvement and choice in the funding and development of child care services and supports the proposed changes being put forward by the Administration for Children and Families in this NPRM.

Conclusion

Increasing flexibility in child care funding would make an important impact for the 109 tribal nations who are currently limited by income eligibility requirements to provide child care services to all families in need in their communities. Child care services, which take many forms of early childhood care and education in a community, can significantly improve child safety and well-being, as well as building up support systems for children's caregivers. The accessibility of child care services and related networks of support has direct impact on overall child welfare in a community. By increasing flexibility of how CCDF funds can be used by all tribal nations that receive grants from this fund, there are more opportunities for tribes to invest in child care, whether that's expanding income eligibility requirements or directing funds to addressing the needs of growing and evolving child care services. This flexibility allows for tribes to make their own sovereign determinations of what their community needs when it comes to child care services, and are able to set their own standards for eligibility that dictate who child care funds are supporting. Investment in child care is a key component in improving economic and general well-being in tribal communities across the nation.

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